

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SHUFFLE MASTER, INC.,

Plaintiff,

vs.

YEHIA AWADA and GAMING
 ENTERTAINMENT, INC.,

Defendants.

Case No. 2:04-cv-00980-BES-PAL

**REPORT OF FINDINGS AND
 RECOMMENDATION**

(Order to Show Cause - #166)

This matter is before the court on the failure of defendants to respond to or comply with the court's Order (#166) requiring them to show cause why dispositive sanctions should not be recommended to the District Judge for failure to comply with the court's prior Order (#157) and the provisions of LR IA 10-6(d).

FINDINGS

In a prior Order (#157) entered October 16, 2007, the undersigned granted the motion of the law firm of Lewis Brisbois Bisgaard & Smith LLP to withdraw as attorneys of record on behalf of the defendants. The order also required the defendant corporation to obtain substitute counsel to make an appearance in this action no later than November 15, 2007, and required the individual defendant, Yehia Awada, to either obtain substitute counsel to make an appearance in this action or file a statement with the court indicating he would be appearing in this matter *pro se*. The order specifically provided that "the court will strictly enforce the provisions of LR IA 10-6(d)" and that failure to timely comply with the order to obtain substitute counsel by the corporation, and to obtain substitute counsel or file a notice with the court indicating Mr. Awada would be appearing *pro se* might result in the imposition of sanctions up to and including a recommendation to the District Judge of case dispositive sanctions. The

1 Clerk of the Court mailed a copy of the court's prior Order (#157) to the defendants by certified mail on
2 October 25, 2007 (#158). On October 26, 2007, the Clerk received a letter from Mr. Awada, CEO and
3 President of defendant Gaming Entertainment, Inc. (#159), addressed to the undersigned
4 acknowledging receipt of the order granting the motion for withdrawal, and indicating he opposed the
5 law firm's motion to withdraw. The letter also requested that the court reconsider the order granting the
6 law firm's motions to withdraw because the law firm did not make the court aware of the defendants'
7 objection to the motion to withdraw, and because there were pending motions which Mr. Awada
8 believed the law firm had the "responsibility to finish."

9 As the court's prior Order (#157) noted, at the time defense counsel filed the motion to
10 withdraw, there were three fully briefed motions for summary judgment and the parties' opposing claim
11 construction positions under submission to the court. The court issued its claim construction Order
12 (#153) after the motion to withdraw was filed, and counsel for the defendants filed a timely Objection
13 (#154) to the court's claim construction order to protect the defendants' interests. The court's prior
14 Order (#157) found that the law firm had established good cause to withdraw as attorneys of record for
15 defendants and that the law firm had taken action to protect the clients' interests by filing objections
16 while the motion to withdraw was pending. The order also noted that discovery had closed, no trial
17 date had been set, and a trial date would not be set until the District Judge decided the three motions for
18 summary judgment which were fully briefed and under submission. Defendants never complied with
19 the court's prior Order (#157).

20 Plaintiff filed a Motion for an Order to Show Cause (#164) on December 7, 2007 asking the
21 court to issue an order to show cause why case dispositive sanctions should not be imposed for the
22 defendants' failure to comply with the court's order. On January 2, 2008, the undersigned entered an
23 Order (#167) requiring defendants to show cause, in writing, no later than February 1, 2008 why
24 dispositive sanctions should not be recommended to the District Judge for failure to comply with the
25 court's prior Order (#157) and the provisions of LR IA 10-6(d). To date defendants have not complied
26 with the court's Order to Show Cause (#167) or requested an extension of time in which to do so.

27 Defendants have failed to comply with multiple court orders (## 157 and 167) and the Local
28 Rules of Practice, LR IA 10-6(d). The defendant corporation has not obtained substitute counsel to

1 make an appearance in this action, and individual defendant Yehia Awada has not obtained substitute
2 counsel to make an appearance in this action or filed a statement with the court indicating he will be
3 appearing in this matter *pro se*. The court has warned defendants multiple times that the court would
4 strictly enforce the provisions of LR IA 10-6(d) and that failure to timely comply with the court's orders
5 might result in the imposition of sanctions up to and including a recommendation to the District Judge
6 of case dispositive sanctions.

7 Defendants have also failed to timely comply with the District Judge's Order (#162) requiring
8 defendants to file supplemental briefing on their Summary Judgment motions no later than November
9 30, 2007. To date defendants have not filed supplemental briefing on their motions for summary
10 judgment.

11 Defendants' failure to comply with the court's orders and failure to comply with LR IA 10-6(d)
12 has delayed adjudication of this case on its merits and interfered with this court's management of its
13 docket.

14 Based on the foregoing and for good cause appearing,

15 **IT IS RECOMMENDED** that the District Judge enter a default judgment in favor of plaintiff
16 against the defendant corporation unless the defendant corporation obtains substitute counsel to make
17 an appearance in this action within **15 days** of the date of this Report of Findings and Recommendation,
18 and that a default judgment be entered in favor of plaintiff against individual defendant Yehia Awada
19 unless Awada obtains substitute counsel to make an appearance in this action or files a statement with
20 the court indicating he will be appearing in this matter *pro se* within **15 days** of the date of this Report
21 of Findings and Recommendation.

22 Dated this 13th day of February, 2007.

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25 PEGGY A. LEEN
26 UNITED STATES MAGISTRATE JUDGE
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